Regulation 39-22-303.1. Election of apportionment method.

Every corporation doing business in Colorado and one or more other states has an annual election to apportion income under the provisions of section 39-22-303, C.R.S. (the Colorado Income Tax Act) or under the provisions of section 24-60-1301, C.R.S. (the Multistate Tax Compact). The election must be made with the filing of the Colorado income tax return and cannot be changed after the due date of the return.

Regulation 39-22-303.3.

- (a) Inclusion of intangible drilling costs in the property factor. Intangible drilling costs should be included in both the numerator and the denominator of the property factor as computed under section 39-22-303(3), C.R.S. Since intangible drilling costs represent long range investments in the hope of producing oil or gas income, they are properly includable in the computation of the property factor.
- (b) "Safe Harbor" lease property. "Safe Harbor" lease property shall be included in the property factor of the lessee/user and shall be excluded from the property factor of the lessor/owner.

Regulation 39-22-303.4.

- (a) "Safe Harbor" lease income. All income and deductions created by "safe harbor" lease transactions shall be included in the numerator of the Colorado revenue factor only if the lessor's commercial domicile is located in Colorado. All income and deductions created by "safe harbor" lease transactions shall not be included in the numerator of the Colorado revenue factor if the lessor's commercial domicile is not in Colorado.
- (b) Colorado destination sales of a corporation not having nexus in Colorado when such corporation is an includable member of an affiliated group of corporations. In the case of a corporation that does not have nexus (is not doing business) in Colorado even though it is an "includable corporation" in an affiliated group of unitary corporations filing a combined Colorado return, the sales of such corporation of property delivered to purchasers in Colorado shall not constitute Colorado sales for purposes of determining the revenue factor.

Regulation 39-22-303.6.

Distributions and allocation of gross income and deductions between or among C corporations.

Even though subsection 39-22-303(6), C.R.S., has been superseded by subsection 39-22-303(11), C.R.S., as a vehicle for requiring combined reporting for affiliated C corporations, subsection 39-22-303(6) is still available for use by the Department of Revenue or by the taxpayer for determining Colorado taxable income by use of methodology such as that contained in section 482 of the Internal Revenue Code in applying "arm's length pricing" procedures.